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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

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Homer T. McCrary, et al., NO. C 06-04174 JW

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Plaintiff,

**SCHEDULING ORDER**

11

v.

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Carlos M. Gutierrez, et al.,

Defendants.

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16 Upon filing, this case was scheduled for a case management conference on October 23, 2006.

17 Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred  
18 and duly submitted a Joint Case Management Statement and Proposed Order. Based on their joint  
19 submission, it appears that a schedule for the case can be set without the necessity of an appearance  
20 at this time. Accordingly, **the case management conference is vacated** and the parties are ordered  
to comply with the following schedule:

- 21 1. Defendants shall complete production of the administrative record for judicial review  
22 and serve a copy of such record upon Plaintiff and the Court no later than **November  
23 22, 2006.**
- 24 2. Plaintiff shall have 60 days from the filing of the record in which to review that  
25 record and to serve discovery requests or objections, if any. Defendants reserve the  
26 right to oppose any request for discovery or to supplement the record.
- 27 3. In the event that Plaintiff does not file objections to the administrative record or  
28 pursue discovery, Plaintiff shall file his summary judgment 105 days from the filing

1 of the record. Defendants shall file a combined opposition/cross motion for summary  
2 judgment 45 days after receipt of Plaintiff's brief; Plaintiff shall file a combined  
3 opposition/reply 30 days thereafter, and Defendants shall file a reply 14 days  
4 thereafter.

- 5 4. In the event that Plaintiff pursues discovery or files an objection to the record,  
6 Plaintiff shall file his motion for summary judgment within 45 days after the  
7 completion of discovery or supplementation of the record, whichever is later, which  
8 contemplates a ruling by this Court on any motions for a protective order that may be  
9 sought by defendants. Defendants shall file a combined opposition/cross motion for  
10 summary judgment 45 days after receipt of Plaintiff's motion for summary judgment.  
11 Plaintiff shall file a combined opposition/reply 30 days thereafter, and Defendants  
12 shall file their reply 14 days thereafter.

13 None of the dates set in this order may be changed without an order of the court made after a  
14 motion is duly filed and made pursuant to the local rules of this court.

15  
16 Dated: October 17, 2006  
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18 JAMES WARE  
19 United States District Judge  
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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Andrea M. Miller [Amiller@NMLawFirm.com](mailto:Amiller@NMLawFirm.com)  
3 James L. Buchal [counsel@buchal.com](mailto:counsel@buchal.com)  
3 Robert Pendleton Williams [robert.p.williams@usdoj.gov](mailto:robert.p.williams@usdoj.gov)

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5 **Dated: October 17, 2006**

Richard W. Wieking, Clerk

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7 **By: /s/ JW Chambers**

Elizabeth Garcia  
Courtroom Deputy